IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7939 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JITENDRAKUMAR B PARMAR

Versus

VASAWA/SECTION OFFICER

Appearance:

MRS SANGEETA N PAHWA for Petitioner

NOTICE SERVED for Respondent No. 1

MR PR JOSHI AGP for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/10/2000

ORAL JUDGEMENT

The petitioner seeks compassionate employment under the respondent no.2 herein. It appears that the petitioner's father one Bhaljibhai Parmar was serving as a Manager in Sanskar Kendra, Jam Jodhpur, under the

respondent no.2. While he was in service, he passed away on 15th January, 1980. The petitioner, at the relevant time, was a minor. On 23rd February, 1981, the widow of the said Bhaljibhai-the mother of the petitioner, applied for compassionate employment. It appears that neither the said application was processed by the respondents authorities, nor did the applicant, the mother of the petitioner, persue her application. The mother of the petitioner was not offered compassionate employment. In the month of July, 1986, she informed the concerned authority that she was not keeping good health and she was unable to take up any service. In that view of the matter, she offered candidature of her son i.e. the petitioner herein for compassionate employment in place of the deceased Bhaljibhai. The said application was followed by an application by the petitioner made on 8th August, 1986. In the year 1989, the petitioner was called upon to submit certain documents as regards the income of the family, the previous application and the decision thereon, if any, etc. Thereafter by communication dated 17th March, 1992, the petitioner was informed that his application for compassionate employment was rejected as being time barred. Feeling aggrieved, the petitioner has preferred the present petition.

Ms. Pahwa has submitted that at the time of the death of the father of the petitioner-Bhaljibhai, the petitioner was a minor and he could not have applied for compassionate employment until he attained majority. At the relevant time, the application for compassionate employment made by the mother of the petitioner was pending and two persons from the family could not have applied for compassionate employment. The petitioner, therefore, did not make application for compassionate employment till her mother expressed unwillingness to take up such employment. Even after the petitioner made application in the year 1986, the same was not processed till the year 1991 i.e. for a long period of five years. She has submitted that the respondents have committed a grave error in considering the petitioner's application as that of 1986 and in ignoring the application for compassionate employment made by the mother of the petitioner i.e. widow of late Bhaljibhai as early as in the year 1981.

It is not disputed that the petitioner attained majority in the year 1984. It is true that if at the relevant time the petitioner were a minor, he could not have applied for compassionate employment, but he should have made such an application immediately on attaining

majority. It is well established principle that in such cases, the application should be made within six months from the date the minor attains majority. Admittedly, the petitioner has not made such application for nearly two years. Offer of compassionate employment is an exception to the general rule that appointment in public employment shall be made after following due procedure and in accordance with merits. This exception can be availed of by the claimant only in case where the applications are made in accordance with the prevalent policy. In the present case, the petitioner has not made the application for compassionate employment within six months from the date of his attaining the majority. He could not have claimed such employment years after he attained the majority. The basic purpose for offer of compassionate employment is to enable the bereaved family to tide over the immediate crisis. Such crisis can not exist years after the death. Ms. Pahwa has vehemently argued that actually the application for compassionate employment was made in the month of February, 1981 and, therefore, the claim can not be said to be a belated one. Be it noted that the application made in the year 1981 was one made by the mother of the petitioner. The said application does not appear to have been processed at all, nor did the said applicant persue the matter. The petitioner can not claim the benefit of compassionate employment on the strength of the application made by his mother. Admittedly, the petitioner's application for compassionate employment was not made immediately on his attaining majority i.e. within six months therefrom. The decision of the respondents authorities being in consonance with the prevalent policy, does not warrant interference.

Petition is dismissed. Rule is discharged.

(MS R.M.DOSHIT J)

JOSHI